

AMENDED IN SENATE MAY 24, 2005

AMENDED IN SENATE MAY 18, 2005

AMENDED IN SENATE MAY 3, 2005

AMENDED IN SENATE MARCH 29, 2005

**SENATE BILL**

**No. 488**

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**Introduced by Senator Soto**

February 18, 2005

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An act to amend Sections 7028 and 7125.4 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

SB 488, as amended, Soto. Contractors.

Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensure and regulation of contractors. Existing law makes it a misdemeanor for any person to engage in the business or act in the capacity of a contractor without having a license. Existing law requires, with exceptions, that a repeat offender be confined in a county jail for not less than 90 days. Existing law requires a court to state on the record its reasons if the court imposes a jail sentence of less than 90 days or only a fine.

This bill would make 3rd and subsequent convictions of these offenses punishable by a fine not exceeding \$10,000, but not less than 20% of the contract price, or \$4,500, whichever is greater, or by imprisonment or by both that fine and imprisonment.

Existing law generally requires an applicant for a contractors' license or a licensee to have on file with the board a Certificate of Workers' Compensation Insurance or a Certification of

Self-Insurance. Existing law provides that failure to comply with these provisions constitutes cause for disciplinary action.

This bill would also make any qualifier for a license guilty of a misdemeanor for committing or failing to prevent the commission of any of these acts that are cause for disciplinary action.

Because failure to comply with the bill would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7028 of the Business and Professions  
2 Code is amended to read:  
3 7028. (a) It is a misdemeanor for any person to engage in the  
4 business or act in the capacity of a contractor within this state  
5 without having a license therefor, unless the person is  
6 particularly exempted from the provisions of this chapter.  
7 (b) If a person has been previously convicted of the offense  
8 described in this section, *unless the provisions of subdivision (c)*  
9 *are applicable*, the court shall impose a fine of 20 percent of the  
10 price of the contract under which the unlicensed person  
11 performed contracting work, or four thousand five hundred  
12 dollars (\$4,500), whichever is greater, and, unless the sentence  
13 prescribed in subdivision (c) is imposed, the person shall be  
14 confined in a county jail for not less than 90 days, except in an  
15 unusual case where the interests of justice would be served by  
16 imposition of a lesser sentence or a fine. If the court imposes  
17 only a fine or a jail sentence of less than 90 days for second or  
18 subsequent convictions under this section, the court shall state  
19 the reasons for its sentencing choice on the record.  
20 (c) ~~A third or~~ *third or* subsequent conviction for the offense  
21 described in this section is punishable by a fine not exceeding ten  
22 thousand dollars (\$10,000), but not less than 20 percent of the

1 price of the contract under which the unlicensed person  
2 performed the contracting work, or four thousand five hundred  
3 dollars (\$4,500), whichever is greater, or by imprisonment in a  
4 county jail for not more than one year or less than 90 days, or by  
5 both that fine and imprisonment. The penalty provided by this  
6 subdivision is cumulative to the penalties available under all  
7 other laws of this state.

8 (d) In the event the person performing the contracting work  
9 has agreed to furnish materials and labor on an hourly basis, “the  
10 price of the contract” for the purposes of this section means the  
11 aggregate sum of the cost of materials and labor furnished and  
12 the cost of completing the work to be performed.

13 (e) Notwithstanding any other provision of law to the contrary,  
14 an indictment for any violation of this section by the unlicensed  
15 contractor shall be found or an information or complaint filed  
16 within four years from the date of the contract proposal, contract,  
17 completion, or abandonment of the work, whichever occurs last.

18 SEC. 2 Section 7125.4 of the Business and Professions Code  
19 is amended to read:

20 7125.4. (a) The filing of the exemption certificate prescribed  
21 by this article that is false, or the employment of a person subject  
22 to coverage under the workers’ compensation laws after the filing  
23 of an exemption certificate without first filing a Certificate of  
24 Workers’ Compensation Insurance or Certification of  
25 Self-Insurance in accordance with the provisions of this article,  
26 or the employment of a person subject to coverage under the  
27 workers’ compensation laws without maintaining coverage for  
28 that person, constitutes cause for disciplinary action.

29 (b) Any qualifier for a license who, under Section 7068.1 is  
30 responsible for assuring that a licensee complies with the  
31 provisions of this chapter, is also guilty of a misdemeanor for  
32 committing or failing to prevent the commission of any of the  
33 acts that are cause for disciplinary action under this section.

34 SEC. 3 No reimbursement is required by this act pursuant to  
35 Section 6 of Article XIII B of the California Constitution because  
36 the only costs that may be incurred by a local agency or school  
37 district will be incurred because this act creates a new crime or  
38 infraction, eliminates a crime or infraction, or changes the  
39 penalty for a crime or infraction, within the meaning of Section  
40 17556 of the Government Code, or changes the definition of a

- 1 crime within the meaning of Section 6 of Article XIII B of the
- 2 California Constitution.

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